

Links to permitting in Ch NR 460

NR 460.01 No direct link, but references to future MACT standards and MACT standards that are not adopted into the Wis. Adm. Code. Any MACT standard may have different applicability dates based on whether source is classified as existing or new (new may include modified sources if they meet the definition of "reconstructed"). Clean Air Act indicates that the standards can be less stringent for existing sources than for new. Case-by-case MACT can apply to "reconstructed" sources.

Reconstruction can move up the compliance date for a promulgated MACT standard because reconstructed sources are classified as new sources.

NR 460.02(25) definition of new MACT source includes sources that are "reconstructed".

(25) "New MACT source" means any affected source the construction or reconstruction of which is commenced after the administrator first proposes a relevant emission standard under 40 CFR part 63.

NR 460.02(32) definition of reconstruction. Includes criteria of 50% of capital costs and technologically feasible to meet MACT.

A source that it is considered "reconstructed" could become subject to a MACT standard or could become subject to a more restrictive MACT as a "new source". This could occur whether or not source is considered to be "modified". NR 406.07(2) would not appear to prevent this, as that specifically indicates that source will not be treated as a "modified source" does not say that source will not be treated as "reconstructed".

(32) "Reconstruction" means the replacement of components of an affected source, or a stationary source that previously was not an affected source, to such an extent that all of the following apply:
(a) The fixed capital cost of the new components exceeds of the fixed capital cost that would be required to construct a comparable new MACT source.
(b) It is technologically and economically feasible for reconstructed source to meet the relevant standards established the administrator or by the department pursuant to section 112 the act (42 USC 7412). Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new MACT sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

NR 460.04(1)(a) Compliance extensions, etc. Could this be used to provide time for a source to comply with MACT in a case where they become subject to it due to reconstruction?

NR 460.04 Prohibited activities and circumvention.

(1) PROHIBITED ACTIVITIES. (a) No owner or operator subject to the provisions of chs. NR 460 to 469 may operate any affected source in violation of the requirements of chs. NR 460 to 469 except under any of the following:
1. A compliance date extension granted by the administrator

under 40 CFR part 63.

2. A compliance date extension granted under chs. NR 460 to 469 by the department.

3. An exemption from compliance granted by the president of the United States under section 112 (i) (4) of the act (42 USC 7412 (i) (4)).

NR 460.04(1)(c) Refers to NR 406 and 407, but does not seem to be of any significance.

(c) No owner or operator of an affected source who is required under 40 CFR part 63 to obtain a part 70 permit may operate the source except in compliance with the provisions of chs. NR 406, 407 and 460 to 469.

NR 460.04(1)(d) Requires compliance with MACT standards regardless of permit status.

(d) An owner or operator of an affected source who is subject to an emission standard promulgated under chs. NR 460 to 469 shall comply with the requirements of that standard by the dates established in the applicable chapter regardless of any of the following:
1. A part 70 permit has been issued to that source.
2. If a part 70 permit has been issued to that source, whether the permit has been revised or modified to incorporate the emission standard.

NR 460.05(1)(b) Area source could become a major source and be subject to a MACT standard. This would be applicable immediately if the source is classified as reconstructed as indicated in NR 460.05(2)(f) or in accordance with NR 460.05(3)(c) if classified as an existing source.

(b) If an area source, that otherwise would be subject to an emission standard or other requirement established under 40 CFR part 63 or under chs. NR 460 to 469 if it were a major source, subsequently increases its emissions of hazardous air pollutants, or its potential to emit hazardous air pollutants, such that the source is a major source, the source shall be subject to the relevant emission standard or other requirement.

NR 460.05(2) and (3) Compliance dates for new and reconstructed sources Same potential issues with compliance dates as identified for NR 460.01.

NR 460.05(7) Procedures and requirements for compliance extensions. Extension if BACT or LAER has been installed prior to promulgation of MACT standard for 5 years from the date of BACT/LAER installation. 1 year or two year extension, depending on type of MACT standard [112(d) or (f)] is available if source needs to install controls to comply.

NR 460.08 Notification requirements. NR 460.08 (2)(a)3 indicates that NR 406 application, if relevant, fulfills this requirement. Any MACT source that does not need to apply for a construction permit would have to submit some other form of notification. There is no

mention of an application under NR 407 being considered to meet the notification requirement.

Occurrences of modify, modification, modified, etc.

460.01(2)...

Note: This chapter is based on federal regulations contained in 40 CFR part 63 subpart A as last revised on February 12, 1999. The chapter also reflects the federal authority delegation provisions of 40 CFR part 63 subpart E as last revised on September 14, 2000. In addition to meeting the requirements of this chapter, any major new or reconstructed source subject to a relevant standard under 40 CFR part 63 is required to obtain a construction permit under ch. NR 406 as indicated in s. NR 406.04 (2) (i). Also, most other new or **modified** sources are required to submit an operation permit application before commencing operation under s. NR 407.04 (1) b) 3.

NR 460.04 (1) (d) An owner or operator of an affected source who is subject to an emission standard promulgated under chs. NR 460 to 469 shall comply with the requirements of that standard by the dates established in the applicable chapter regardless of any of the following:

1. A part 70 permit has been issued to that source.
2. If a part 70 permit has been issued to that source, whether the permit has been revised or **modified** to incorporate the emission standard.

NR460.05 (6)(d) *Conduct of opacity or visible emission observations.* When a relevant standard under 40 CFR part 63 includes an opacity or visible emission standard, the owner or operator of an affected source shall comply with the following:

1. For the purpose of demonstrating initial compliance, opacity or visible emission observations shall be conducted concurrently with the initial performance test required in s. NR 460.06 unless one of the following conditions applies:
 - a. If no performance test under s. NR 460.06 is required, opacity or visible emission observations shall be conducted within 60 days after achieving the maximum production rate at which a new or reconstructed source will be operated, but not later than 120 days after initial startup of the source, or within 120 days after the effective date of the relevant standard in the case of new MACT sources that start up before the standard's effective date. If no performance test under s. NR 460.06 is required, opacity or visible emission observations shall be conducted within 120 days after the compliance date for an existing or **modified** source.

460.02 (22g) *"Intermediate alternative monitoring"*

460.02 (22r) *"Intermediate alternative test method"*

460.02 (23e) *"Major alternative monitoring"*

460.02 (23m) *"Major alternative test method"*

460.02 (23s) *"Major changes to recordkeeping and reporting"*

460.02 (24e) *"Minor alternative monitoring"*

460.02 (24m) *"Minor change to a test method"*

460.02 (24s) *"Minor change to recordkeeping or reporting"*

(These definitions use the term "modification(s)" but are not referring to modification of a source.)

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